

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

THERMION, INC.,

Plaintiff,

v.

THERMION METALIZING SYSTEMS,
LTD.,

Defendant.

Case No. C05-5409FDB

ORDER DENYING PLAINTIFF'S
MOTION FOR LEAVE TO AMEND
TO ALLEGE CAUSE OF ACTION
FOR PATENT INFRINGEMENT

Plaintiff moves for leave to amend its complaint to allege a cause of action for patent infringement. The deadline for motions to amend pleadings was July 10, 2006, and this motion was filed on September 21, 2006. Defendant opposes the motion for good and substantial reasons. Almost a year ago, Plaintiff Thermion, Inc. (TINC) asserted and then withdrew a '560 patent infringement claim. Plaintiff has failed to demonstrate "good cause" to bring an amendment outside the scheduling order pursuant to Fed. R. Civ. P. 16(b). A motion to amend pursuant to Fed. R. Civ. P. 15(a) may be denied for undue delay, bad faith, prejudice to the opponent, and futility, all of which, Defendant Thermion Metalizing Systems (TMS) asserts are present. There has been undue delay, and it would be prejudicial to Defendant to allow amendment at this late date.

ACCORDINGLY, IT IS ORDERED: Plaintiff's Motion for Leave To Amend To Allege Cause of Action for Patent Infringement [Dkt. # 90] is DENIED.

DATED this 6th day of October, 2006.



FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE